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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/672,825 | 09/26/2003 | Michael Ray McLaughlin | 71609 | 8927 |

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| EXAMINER |
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FIDEI, DAVID

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| ART UNIT | PAPER NUMBER |
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3728

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05/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/672,825

Applicant(s)

MCLAUGHLIN ET AL.

Examiner

David T. Fidei

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 99-103 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 99-103 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/20/06, 01/05/07, 02/20/07
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application
- ☐ Other: ____

DETAILED ACTION

1. Claims 90-103 are pending in the application. In view of Applicant's arguments filed April 30, 2007 the previous rejections are vacated for the following.

Information Disclosure Statement

2. The information disclosure statement filed 2/20/2007 fails to list a relevant date of the non-patent literature. Those citations that are incomplete have been lined through even though the information contained therein has been considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 90, 92-94, 96-98, 102 and 103 are rejected under 35 U.S.C. 102(e) as being anticipated by Kern (Pub. No. US 2005/0161358). A highly compressed filter tow bale is disclosed comprising a sealed chamber comprising a bulk material wherein the density of the bulk material is between 350kg/m^3 to 800kg/m^3 , see paragraph [0022]. Which converts to 0.35g/cm^3 to 0.08g/cm^3 that is within the claimed range. The package has a top wall, bottom wall and a plurality of side walls that is cuboidal shape where the wall are substantially flat and free of bulges, see paragraph [0002]. The pressure in the sealed chamber is less than ambient as described in paragraph [0035]. At least one wall comprises and evacuator provided by the coupling to a pump described in paragraph [0037].

As to claims 92, 93 and 94, polyethylene is contemplated in paragraph [0024].

Art Unit: 3728

As to claim

As to claim 96, a volume of 0.9 m^3 is disclosed in paragraph [0022].

As to claims 97 and 98, paragraph [0021] discloses a deviation of approximately 10mm from flat and a cuboid height of 970 mm to 1200 mm is disclosed in paragraph [0022].

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 91, 95 and 99-101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kern (Pub. No. US 2005/0161358) as applied to the claims above, and further in view of Bartsch et al (US Patent no. 4,157,754). The difference between claim 91 and Kern resides in the fibers comprising cellulose acetate fibers. Bartsch et al teaches that it is known in the art to construct compressed bales of cellulose acetate, see col. 9, line 19. It would have been obvious to one of ordinary skill in the art to modify the bale of Kern by incorporating cellulose acetate fibers as suggested by Bartsch, for the reason that the particular material employed would be a mere selection of material desired to be packaged and it is demonstrated cellulose acetate is well known to be provided in compressed bales.

As to claim 95, it would have been an obvious matter of design choice to construct the bale of the claimed length, width and height, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). Also, it has been held that where the only difference between the prior art device and the claimed device was a recitation of relative dimensions, the claimed device was not patentably distinct from the prior art device, Gardner v. TED Systems, Inc., 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. Denied, 469 U.S. 830, 2325 USPQ 232 (1984), see M.P.E.P. 2144.04 (IV).

As to claims 99-101, negative pressure in Kern can be modified by removing air from the interior surrounded by the wrapper. In this way negative pressure can be adjusted with a high degree of accuracy, see paragraph [0036]. To construct a package with the claimed parameters appears to be an obvious matter of design choice within the level of ordinary skill dependent upon the degree of compactness desired along with the final package pressure.

REPLY BY APPLICANT OR PATENT OWNER TO THIS OFFICE ACTION

7. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

If no amendments are made to claims as applicant or patent owner believes the claims are patentable without further modification, the reply must distinctly and specifically point out the supposed errors in the examiner's action and must respond to every ground of objection and rejection in the prior Office Action in the same vain as given above, 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

The examiner also points out, due to the change in practice as affecting final rejections, older decisions on questions of prematurity of final rejection or admission of subsequent amendments do not necessarily reflect present practice. "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based


Art Unit: 3728

on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)" (emphasis mine), see MPEP 706.07(a).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David T. Fidei
Primary Examiner
Art Unit 3728

dtf
May 16, 2007